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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,268	05/23/2001	Peter Michael Self	7499/VB	6480

7590 01/29/2003

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/719,268

Applicant(s)

SELF ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.
  - I. Claims 1-6, drawn to method of obtaining effective residual antimicrobial activity on a hard surface, classified in class 134, subclass various.
  - II. Claims 7-16 drawn to a pre-moistened wet wipe, classified in class 15, subclass 209.1.
  - III. Claim 17 drawn to an article of manufacture, classified in class 206, subclass 223+.
4. The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The invention of group I, directed to a method of obtaining effective residual antimicrobial activity on a hard surface does not use the pre-moistened wet wipe of Group II, claims 7-16. The inventions of Groups I and II do not comprise the container recited in the article of manufacture of Group III, claim 17.
5. During a telephone conversation with Thibault Fayette on December 6<sup>th</sup> 2002 a provisional election was made with traverse to prosecute the invention directed to a pre-moistened wet wipe, claims 7-16. Affirmation of this election must be made by applicant in

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replying to this Office action. Claims 1-6 and 17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6 Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7 Applicant is advised that the reply to this requirement to complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 7-9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monticello et al., WO 98/21305 in view of Hossain et al., US 4,828,912.

The published PCT application to Monticello et al., discloses a disinfecting composition comprising from .1-7 % wt citric acid, .1-12 % wt of a non-ionic surfactant, 1-10 % wt solvent and up to 100 % wt of water (Abstract and Page 1, 25-30). The acidic pH of the composition ranges from 1 to about 4 (Page 2,1-5). Suitable non-ionic surfactants include alcohol ethoxylates (Page 4,23-25). Suitable solvents include the claimed propoxypropanol (Page 3,20-25).

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Monticello et al., fails to teach applying the disinfecting composition to a non-woven substrate, however, the patent issued to Hossain et al., teaches a virucidal product comprising citric acid and a surfactant (Abstract and Title). To prevent the spread of viruses, Hossain et al., further teaches coating or impregnating a substrate such as a facial tissue or a non-woven for use as a wet wipe (Column 3, 55-67).

Therefore, motivated to prevent the spread of viruses such as those associated with the common cold it would have been obvious to one having ordinary skill in the art at the time the invention was made to coat or impregnate a non-woven substrate as taught by Hossain et al., with the coating composition of Monticello et al.

With regard to the loading factor limitation recited in claim 7, Hossain et al., or Monticello et al., does not teach a loading factor, however it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a suitable amount of the virucidal composition to the non-woven substrate as a function of desired efficacy. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monticello et al., WO 98/21305 in view of Hossain et al., US 4,828,912 as applied to claim 8 above and further in view of Wierenga et al., US 5,965,514

Both Monticello et al., and Hossain et al., fail to teach the addition of a suds suppressor, however, the patent issued to Wierenga et al., teaches disinfecting and cleaning composition that comprises a suds suppressor (Abstract and Column 14, 10-15). Wierenga et al., teaches adding a

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suitable suds suppressor in an amount ranging from .01 to 3% to prevent excessive sudsing (Column 14, 15-20).

Therefore, motivated to prevent excessive sudsing it would have been obvious to one having ordinary skill in the art to add a suitable sudsing suppressor as taught by Wierenga et al., to the disinfecting composition of Monticello et al or Hossain et al.

10. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monticello et al., WO 98/21305 in view of Hossain et al., US 4,828,912 and further in view of Misselyn et al., US 5,415,813.

Monticello et al., and Hossain et al., fails to teach the addition of a hydrotrope, however, the patent issued to Misselyn et al., teaches a disinfecting and cleaning composition that comprises a hydrotrope (Abstract and Column 17, 5-10). Misselyn et al., teaches adding a suitable hydrotrope such as sodium cumene sulfate in an amount ranging from .01 to 5% to control the viscosity of the liquid composition and the low temperature cloud clear properties (Column 17, 10-27).

Therefore, motivated to control the viscosity and low temperature cloud clear properties of the liquid composition it would have been obvious to one having ordinary skill in the art to add a suitable hydrotrope such as the one taught by Misselyn et al., to the disinfecting wipe of Monticello et al and Hossain et al.

With regard to the loading factor limitation recited in claim 14, Hossain et al., or Monticello et al., does not teach a loading factor, however it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a suitable amount of the virucidal composition to the non-woven substrate as a function of desired efficacy. It has

been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monticello et al., WO 98/21305 in view of Hossain et al., US 4,828,912 and further in view of Misselyn et al., US 5,415,813 as applied to claim 14 and further in view of Wierenga et al., US 5,965,514

Monticello et al., Hossain et al., and Misselyn et al., fails to teach the addition of a suds suppressor, however, the patent issued to Wierenga et al., teaches a disinfecting and cleaning composition that comprises a suds suppressor (Abstract and Column 14, 10-15). Wierenga et al., teaches adding a suitable suds suppressor in an amount ranging from .01 to 3% to prevent excessive sudsing (Column 14, 15-20).

Therefore, motivated to prevent excessive sudsing it would have been obvious to one having ordinary skill in the art to add a suitable sudsing suppressor as taught by Wierenga et al., to the disinfecting wipe of Monticello et al., Hossain et al., and Misselyn et al.


### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls 

January 27, 2003

  
CHERYL A. JUSKA  
PRIMARY EXAMINER